

July 24, 2012

Gregg McLean Adam  
CARROLL, BURDICK & McDONOUGH LLP  
44 Montgomery Street  
Suite 400  
San Francisco, CA  
94104-4606

**Re: San Jose POA – Outsourcing Background Investigations  
File NO. 038780**

Dear Gregg:

I am in receipt of your letter dated July 10, 2012, responding to the City's proposal to outsource background investigations pursuant to section 51.2 of the Memorandum of Agreement between the City of San Jose and the San Jose Police Officers' Association ("SJPOA"). As we discussed on Thursday, June 28, 2012, it appears that we have a fundamental disagreement over the meaning of section 51.2. Section 51.2 states that "any contracting out and/or further civilianization of positions represented by the POA during the term of this agreement would be subject to the meet and confer process." [Emphasis added.] This language is separate and distinct from Section 51.1, which permits the City to contract out or civilianize twenty positions at its discretion.

Your letter presents a second concern with the City's Proposal, specifically that, "The particular type of work that is to be civilianized – background investigations – is work that is quintessentially the work of police officers, not civilians." We disagree. As you know, some other police agencies outsource their background investigations. Indeed, the City's desire to outsource background investigations is premised on our shared interest in keeping more Police Officers on the street, so that they can perform the quintessential work of preventing and investigating crime in the community. As you know, the current process of using San Jose Police Officers to handle background investigations removes them from regular patrol duties, thus reducing the numbers of officers on the street. In other words, the City's proposal is intended to increase the Police Department's ability to respond to and prevent crime.

We also want to reiterate that police personnel will continue to oversee the outsourced background investigation staff, and the City's proposal does not change any other term or condition of employment.

As we indicated at our meeting on June 28, we would appreciate any counterproposal which the SJPOA wishes to make. If you do not have a counterproposal on this issue, we believe the parties are at impasse. Please let us know by August 1, 2012, if you would like to proceed to mediation under the impasse procedures outlined in Resolution 39367.

If you have any further questions or concerns regarding any of the above, please do not hesitate to contact Jennifer Schembri at (408) 535-8154.

Sincerely,

A handwritten signature in black ink, appearing to read "Schembri for", written over the word "Sincerely,".

Alex Gurza  
Deputy City Manager

- c. Chris Moore, Chief of Police  
Edgardo Garcia, Deputy Chief  
Jim Unland, President, San Jose POA